REMARKS

Reconsideration and allowance of the present application are respectfully requested. Claims 1-21 remain pending in the application. By this Amendment, claims 1, 3 and 10 are amended.

In numbered paragraph 2, page 2 of the final Office Action, claim 1 is rejected under 35 U.S.C. §112, first paragraph, alleging failure to comply with the written description requirement. To address the Examiner's issues, claim 1 is amended. Withdrawal of the rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

In numbered paragraph 4, page 3 of the final Office Action, independent claim 1, along with all dependent claims, is rejected as being unpatentable over U.S. Patent 5,938,080 (Haaser et al.) in view of U.S. Patent 6,516,245 (Dirksing et al.). In numbered paragraph 5, page 6 of the final Office Action, independent claim 1, along with all dependent claims, is rejected as being unpatentable over the Haaser et al. patent in view of U.S. Patent 6,793,387 (Neas et al.). These rejections are respectfully traversed.

Applicant has disclosed a device and a method of operating the device, which serve to mix substances with high precision in a simple manner (e.g., paragraph [00011]). For example, Applicant has disclosed a device for mixing substances having, among other features, a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed (e.g., paragraph [00014]); a local memory unit connected with the processor unit to store mixing formulas and to keep mixing formulas available for operation of the mixing device (e.g., paragraphs [00012] - [00014], [00022], [00037] and [00039]); a display unit and an input unit

operably connected with the processor unit; a scale by which portions of substances in quantities determined according to a mixing formula are filled manually or automatically into a container; and a data server comprising a memory to store actual mixing formulas (e.g., paragraph [00022]), wherein the processor unit is connected to a communications module for establishing a wireless communications connection to the data server for a time period, regularly or intermittently, for receiving data of up-to-date mixing formulas to control the mixing process of the substances (e.g., paragraph [00014]).

The foregoing features are broadly encompassed by amended claim 1, which recites a device for mixing substances having, among other features, a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed; a local memory unit connected with the processor unit to store mixing formulas and to keep mixing formulas available for operation of the mixing device; a display unit and an input unit operably connected with the processor unit; a scale by which portions of substances in quantities determined according to a mixing formula are filled manually or automatically into a container; and a data server comprising a memory to store actual mixing formulas, wherein the processor unit is connected to a communications module for establishing a wireless communications connection to the data server for a time period, regularly or intermittently, for receiving data of up-to-date mixing formulas to control the mixing process of the substances.

Claim 10 recites a method of operating a device for mixing substances, the device comprising: a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed; a local memory unit connected with the processor unit to store mixing formulas and to keep mixing formulas available for

operation of the mixing device; a display unit and an input unit operably connected with the processor unit; a scale, by which portions of substances in quantities determined according to a mixing formula are filled manually or automatically into a container; and a data server comprising a memory to store actual mixing formulas, the method comprising: regularly or intermittently connecting a wireless communication between the device and a data server, and receiving up-to-date data of mixing formulas for the local memory unit of the device, wherein the local memory unit keeps up-to-date mixing formulas available for operation of the mixing device.

The Haaser et al. Patent

The Haaser et al. patent discloses a simple and basic apparatus for mixing and dispensing of fluids, such as pigment concentrates. However, the Haaser et al. patent does not teach or suggest that mixing portions are freely selectable as recited in Applicant's claim 1. In contrast, the Haaser et al. patent merely discloses a "precalculated amount..." (col. 4, lines 21-25), and that a reservoir holds a "preselected quantity" (col. 4, lines 47-48).

Further, the Haaser et al. patent does not teach or suggest a data server comprising a memory to store actual mixing formulas, wherein the processor unit is connected to a communications module for establishing a wireless communications connection to the data server for a time period, regularly or intermittently, for receiving data of up-to-date mixing formulas to control the mixing process of the substances, as recited in claim 1. Similarly, the Haaser et al. patent does not teach or suggest a method of operating the device for mixing substances, the method comprising: regularly or intermittently connecting a wireless communication between the device and a data server, and receiving up-to-date data of mixing formulas for

the local memory unit of the device, wherein the local memory unit keeps up-to-date mixing formulas available for operation of the mixing device, as recited in claim 10.

The Dirsking et al. Patent

The Dirksing et al. patent discloses customizing cosmetics for use by a consumer (abstract). The Dirksing et al. patent discloses that prepackaged selection data may be made available to a consumer via automated phone system or an internet web site where the consumer may retrieve numeric codes representing selection data necessary to generate existing market products (col. 5, lines 1-7). However, this disclosure relates to a delivery of cosmetic product as needed, but the disclosure does not relate to a controlled dispensing technology to control the mixing of substances.

Further, as shown in Fig. 2D, the Dirksing et al. patent discloses that a microprocessor 350 receives selection data which is used to drive the microprocessor to issue commands through a data bus 340, causing specific quantities of the fluids contained in the cartridges 360 to be released into the piping system 370 (col. 6, lines 29-33). Accordingly, the microprocessor is used to process the valves but not to calculate mixing portions. The Dirksing et al. patent does not teach or suggest a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed, as recited in claim 1.

The Dirksing et al. patent does not cure the deficiencies of the Haaser et al. patent, because the Dirksing et al. patent does not teach or suggest:

- a local memory unit being able to keep mixing formulas available for operation of the mixing device;

- a data server comprising a memory that at any time has actual mixing formulas;
- a communications connection to the data server for a time period, regularly or intermittently, for receiving data of up-to-date mixing formulas; and
- a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed.

Rather, according to the Dirksing et al. patent, the input has to come from the consumer selecting his or her specific product; and the microprocessor is used to process the valves but not to calculate mixing portions (col.6, lines 29-33 and 62-63).

Even if combined, the Haaser et al. patent and the Dirksing et al. patent, considered individually or in combination as suggested by the Examiner, do not teach or suggest a device for mixing substances having, among other features, a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed; a local memory unit connected with the processor unit to store mixing formulas and to keep mixing formulas available for operation of the mixing device; and a data server comprising a memory to store actual mixing formulas, wherein the processor unit is connected to a communications module for establishing a wireless communications connection to the data server for a time period, regularly or intermittently, for receiving data of up-to-date mixing formulas to control the mixing process of the substances, as recited in claim 1.

The Neas et al. Patent

The Neas et al. patent does not cure the deficiencies of the Haaser et al. et al. patent. The Neas et al. patent discloses an apparatus and method of preparing a mixture using a computerized apparatus having a plurality of vessels, including a user interface for receiving an input concerning the mixture (abstract). However, the

Neas et al. patent does not teach or suggest a scale by which portions of substances in quantities determined according to a mixing formula are filled manually or automatically into a container.

The Neas et al. patent discloses a processor in electrical communication with a storage device 25 (col. 5, lines 37-42). However, this does not teach or suggest a device for mixing substances, having, among other recited features, a local memory unit connected with a processor unit to store mixing formulas and to keep mixing formulas available for operation of the mixing device, and a data server comprising a memory to store actual mixing formulas, as recited in claim 1.

Further, the Neas et al. patent discloses a processing unit linked to a user interface 16 and internal memory that can call-up instructions stored on a storage device (col. 6, lines 1-9). However, the Neas et al. patent defines a memory as a "more-temporary workspace" for executing instructions and processing data (col. 6, lines 21-24). Accordingly, the "memory" as taught by the Neas et al. patent is not suitable for keeping mixing formulas available for operation of the mixing device. The Neas et al. patent does not teach or suggest a local memory unit connected with the processor unit to store mixing formulas and to keep mixing formulas available for operation of the mixing device, as recited in claim 1.

Even if combined, the Neas et al. patent and the Haaser et al. patent, considered individually or in combination as suggested by the Examiner, do not teach or suggest a device for mixing substances having, among other features, a processor unit to calculate mixing portions for freely selectable quantities of substances to be mixed; a local memory unit connected with the processor unit to store mixing formulas and to keep mixing formulas available for operation of the

mixing device; and a data server comprising a memory to store actual mixing formulas, wherein the processor unit is connected to a communications module for establishing a wireless communications connection to the data server for a time period, regularly or intermittently, for receiving data of up-to-date mixing formulas to control the mixing process of the substances, as recited in claim 1

For the foregoing reasons, Applicant's independent device claim 1 is allowable. Claim 10 similarly recites a method of operating the device for mixing substances, and is also allowable.

The remaining claims depend from the independent claims and recite additional advantageous features which further distinguish over the documents relied upon by the Examiner. As such, the present application is in condition for allowance.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the application is in condition for allowance and a Notice of Allowance is respectfully solicited.

Respectfully submitted,

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